



ZONING BOARD OF ADJUSTMENT & APPEALS

AGENDA REQUEST

AGENDA OF:	10/20/10	AGENDA REQUEST NO:	IV-A
INITIATED BY:	DOUGLAS P. SCHOMBURG, AICP <i>D.P.S.</i>	RESPONSIBLE DEPARTMENT:	PLANNING
PRESENTED BY:	DOUGLAS P. SCHOMBURG, AICP INTERIM PLANNING DIR.	ASSISTANT PLANNING DIRECTOR:	N/A
		ADDITIONAL DEPARTMENT HEAD (S):	N/A
SUBJECT / PROCEEDING:	ZONING BOARD OF ADJUSTMENT MEETING DATES AND TIMES DISCUSSION; POTENTIAL CONSIDERATION AND ACTION		
EXHIBITS:	N/A		
CLEARANCES		APPROVAL	
LEGAL:	N/A	INTERIM PLANNING DIRECTOR:	DOUGLAS P. SCHOMBURG, AICP <i>D.P.S.</i>
RECOMMENDED ACTION			
Discuss as needed and determine appropriate date or as needed date. The Planning Department suggests that the third Wednesday of each month is appropriate if the Board decides to adopt a set date.			
EXECUTIVE SUMMARY			
<p>In past years, the Zoning Board of Adjustment has not had a set date to meet each month. Instead, the ZBA has met on an as-needed basis once a case application is received and in process. Whether variance, special exception, or an appeal, the City Secretary's Office currently polls the members for a date where a quorum can be present as well as an alternate. These have generally taken place on Wednesday afternoons at 5:00pm during the last ten years and have fallen on different dates in a typical year as needed. Recently, the question has been posed by members of the ZBA as to the possibility of a set meeting date each month, which can be cancelled if there are no items for discussion or action. This could allow for scheduling and advance planning by Board members and staff. Attached to this report are the existing adopted ZBA Policies and Procedures. If the Board determines that a set date is appropriate, that information can then be added into the Policies and Procedures under the heading "Meetings". An example is as follows:</p> <p><i>"The Zoning Board of Adjustment shall conduct regular meetings on the third Wednesday of each month, unless there are no applications to review and act upon. Members shall be notified by the First weekday of the month by the Planning Department as to whether a meeting will be held."</i></p>			
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EXHIBITS			

CITY OF SUGAR LAND ZONING BOARD OF ADJUSTMENT RULES AND PROCEDURES

*Adopted by the Zoning Board of Adjustment: **June 18, 2008***

CREATION AND AUTHORITY

The Zoning Board of Adjustment (Board) is established by Section 5.02 of the City Charter to hear zoning matters related to appeals, variances, special exceptions, and other duties assigned by law.

MEMBERSHIP AND TERM

City Council appoints five regular members and three alternate members to the Board for two year terms.

DUTIES AND POWERS

The Board hears and decides appeals on building officials' decisions on zoning regulations, requests for special exceptions to the terms of the zoning ordinance, and requests for variances from the terms of the zoning ordinance.

APPOINTMENT OF OFFICERS, DUTIES OF OFFICERS

City Council appoints a Chair and Vice Chair from the Board's membership. The Chair presides over meetings of the Board and signs all documents requiring execution on the Board's behalf. The Vice Chair performs the duties of the Chair in the Chair's absence. The Board shall elect from its membership a Secretary who shall be responsible for drafting all Board decisions. The Secretary performs the duties of the Chair in the absence of both the Chair and Vice Chair.

RECORDS

The City Secretary prepares all agendas and notices of meetings as required by law, keeps the minutes of the Board's proceedings, and maintains the Board's records.

ATTENDANCE AND VACANCIES

A member unable to attend a Board meeting should notify the City Secretary's office at the earliest possible opportunity. The City Secretary notifies the Chair if absences will prevent a quorum. Alternate Board members serve in the absence of one or more regular members. Regular members who miss three consecutive Board meetings are deemed to have automatically resigned from their position. Vacancies will be filled by the City Council.

MEETINGS

Notice of Board meetings will be posted as required by State law. All meetings are open to the public. Four members constitute a quorum of the Board. Each member in attendance, excluding alternates not serving at the time, votes on every matter posted on the agenda for that meeting.

The Chair will call for the items to be considered by the Board in the order presented on the agenda unless the order is changed by four affirmative member votes. The appropriate staff person will be called to the podium to make the presentation.

Members will speak only upon being recognized by the Chair. Members will not interrupt each other while speaking except to make a point of order. The Chair need not recognize any member for a second comment until every member wishing to speak has been allowed a first comment.

Alternate Board Members shall serve in the absence of one or more regular members when requested to do so. Alternate members shall serve on a rotating as needed basis.

The Board will generally take action on matters in the following manner:

1. Making a motion – The Board member proposing any action will make a motion by clearly stating the motion. Any motion may be withdrawn by the mover before it is voted on. The withdrawal is not subject to amendment and does not require a second or a vote.
2. Seconding a motion – All motions must receive a second for action, except for a point of order or the withdrawal of a motion. If a second is made, the Chair will state the names of the members making and seconding the motion. If a motion does not receive a second, it dies.
3. Discussion on the motion – The Board may discuss a pending motion only after the motion has been moved and seconded.
4. Voting on the motion – After discussion, the Chair may call a vote on the motion. A concurring vote of four members is required to authorize a variance, special exception or to reverse an order of the zoning official. Items that do not receive at least four concurring votes in favor of authorizing a variance, special exception or reversal of an order of the zoning official are deemed denied. After voting concludes, the Chair will announce the results.

PUBLIC HEARINGS

Staff will present the City's staff report to the Board. After the staff report, the Board will open the public hearing. Prior to each speaker's presentation, the Chair will administer the following oath:

“Please raise your right hand. Do you solemnly swear or affirm to tell the truth in these proceedings under the penalty of perjury?”

After being sworn in, speakers will address the Board from the podium, state their name and address, and present their evidence. Applicants, inclusive of their representatives, have ten minutes to present testimony in favor of the application. Other speakers must limit their testimony to three minutes each. If time permits the Chair or the Board, by four affirmative votes, may extend the speaker's time to a new limit as specified in the motion.

A speaker wishing to ask questions of the staff, the Board, or other speakers will direct their question(s) to the Chair, who may, as he deems appropriate, direct the question to the appropriate party. When all speakers have completed their testimony, the Chair will close the public hearing. Once the public hearing is closed no further testimony from the public will be taken.

CONFLICTS

Members and alternates must abstain from discussing and voting on a matter before the Board when the member or alternate has a conflict of interest under State law or City Ordinance; or when the member or alternate, because of personal circumstances, believes that he or she cannot render a fair and impartial decision in the matter. Members and alternates with a conflict of interest must inform the City Secretary of the conflict prior to the start of the meeting so that an alternate can be seated at the meeting.

EXECUTIVE SESSIONS

The Board may recess the public meeting and convene in a closed executive session to receive legal advice from the City Attorney regarding a matter on the agenda. Prior to entering a closed meeting, the Chair will announce:

“The Zoning Board of Adjustment of the City of Sugar Land, Fort Bend County, Texas, on the ____ day of _____, (month, year) beginning at ____ o’clock p.m., convened in closed executive session in accordance with Section 551.071 Legal Advice.”

The Board will not take any final action, decision or vote on any public business during the closed meeting.

At the end of the closed session, the Chair will make the following announcement:

“The Zoning Board of Adjustment of the City of Sugar Land, Fort Bend County, Texas, ended its closed executive session at ____ o’clock on this ____ day of _____, (month, year).”

All communication in executive session is privileged and should not be discussed outside of executive session with any member of the public, the Board or the media. Executive sessions will be documented by certified agenda on the form provided by the City Secretary.

APPEALS FROM BOARD DECISIONS

When a request is denied, the same or a substantially similar request will not be considered again. The Board may rehear a case if the facts surrounding the case have materially changed since the Board last decided the issue.

A person aggrieved by a decision of the Board may appeal the Board’s decision by filing a verified petition with a court of law as provided in §211.011 of the Texas Local Government Code.